

REMARKS

In response to the Office Action of July 29, 2004, the Applicant comments as follows:

Rejection Under 35 USC § 102:

Claims 1-8 and 10 currently stand rejected under 35 USC § 102(b) as being anticipated by U.S. Patent No. 6,438,889 to Handy (hereinafter "Handy"). The Applicant respectfully traverses this rejection.

Handy discloses a fishing rod support apparatus for supporting and pivotally adjusting a fishing rod. In use, a tubular restriction member axially receives the handle of a fishing rod. The Applicant contends that clearly no other portion of the fishing rod is anticipated to be received by Handy.

In the case of a fish strike the fishing rod must be reversibly and axially removed from the tubular restriction member in the forward direction of where the line leaves the fishing rod. This required action to remove the fishing rod from the fishing rod support apparatus at best delays the ability to apply a quick, backward motion to the fishing rod, used to put severe tension on the line, further lodging the hook into the fish's mouth (hereinafter "setting the hook") and at worst momentarily places slack on the fishing line prior to setting the hook. Well known to those skilled in the art; slack on the line allows a much greater chance for the fish to remove itself from the hook (hereinafter "spitting the hook") especially if it occurs prior to setting the hook.

Further, the releasable retaining member is used to initially set vertical height of the restriction member and then inhibit vertical movement of the restriction member at that height. The Applicant contends that the restriction member then inhibits vertical movement of the fishing rod and that clearly the retaining member is not anticipated to move to assist in the release of the rod at the time of removing the fishing rod due to the awkwardness of having to remove the securing member (24) first and then still having the fishing rod engaged with the restriction member.

Claims 1 and 10-12 currently stand rejected under 35 USC § 102(b) as being anticipated by U.S. Patent No. 2,311,823 to Gaskill (hereinafter "Gaskill"). The Applicant respectfully traverses this rejection.

Gaskill discloses a fishing rod holder supporting a reel equipped fishing rod. The fishing rod holder anticipates holding fishing rods with a very specific style of reel that has a cross bar member. In use, the fishing rod must be moved forward to disengage the reel from the hooks (18) and therefore cause the same forward removal issues as with Handy.

Also, as with Handy, the releasable retaining member is used to initially set vertical height of the restriction member and then inhibit vertical movement of the restriction member at that height. The Applicant contends that the restriction member then inhibits vertical movement of the fishing rod and that clearly the retaining member is not anticipated to move to assist in the release of the fishing rod at the time of removing the fishing rod due to the awkwardness of having to release the handle (10) first and then still having the fishing rod engaged with the restriction member.

A key feature of the present invention is that it preferably engages the pole portion of the fishing rod not the handle. Although it is preferably engaged with the portion of the pole just in front of the handle it may be engaged anywhere along the fishing rod excluding directly at the reel but including the handle. This feature preferably allows the handle to be grasped during the removal of the fishing rod from the Fishing Rod Support increasing the comfort and speed of removal over all axial operative holders. In addition, the present invention can hold all fishing rods no matter the style of handle such as a pistol grip (unlike the Handy device) or the style of reel (unlike the Gaskill device).

Another key feature of the present device is that it locks the fishing rod in place and prevents movement in all three directions (vertically, horizontally, and axially), unlike the Handy or Gaskill devices which would both allow the fishing rod to be released if accidentally bumped etc. In the case of a fish strike, the fishing rod is removed completely from the present invention by grasping the handle and providing a normal hook setting action, immediately putting tension on the line and setting the hook.

If the same action was placed on the Handy or Gaskill device, their respective locking mechanisms would first have to be released and the fishing rod would still not be completely removed from the respective devices.

The restrictive member and the retaining member both engage the fishing rod and are operatively coupled such that the retaining member vertically slides at the time of fishing rod insertion and removal. The preferably wedge shape of the substantially vertically aligned rod guide in the restrictive member engages the rod to prevent the rod from sliding axially through the present invention as well as preventing rotational movement. The sliding retaining member releasably inhibits vertical movement of the fishing rod by preferably using a wedging action. Gravity pulling down preferably on the back (handle) end of the fishing rod, pivoting the fishing rod such that the front most portion of the fishing rod engages the top of the retaining member opening and the back most portion of the fishing rod engages the bottom of the retaining member opening providing a natural angle of holding the fishing rod somewhere between absolute vertical and absolute horizontal. When desired, such as in ice fishing, the retaining member may be forcibly pushed down, wedging the fishing rod in a horizontal position until either disengaged by a fish strike or setting the hook.

Accordingly, the Applicant contends that the present invention with both a restriction member and a movable retaining member engaging the fishing rod at the pole as to provide removal with a natural hook setting action is clearly not anticipated by the device described by Handy or Gaskill.

Rejection Under 35 USC § 103:

Claim 9 currently stands rejected under 35 U.S.C. § 103(a) as being obvious over Handy as applied to claim 8 in view of U.S. Patent No. 4,656,774 to Terrill (hereinafter "Terrill "). The Applicant respectfully traverses this rejection.

It is the Applicant's view that claim 9 is now indirectly dependent on allowable Claim 1, and therefore is also allowable in the present application.

The remaining prior art cited to show the state of the art with respect to fishing rod holders merely describe other devices which engage the fishing rod handle or ground and are no more relevant than the prior art previously cited in the REMARKS section of this Response to Office Action.

Allowable Subject Matter:

The Applicant has respectfully added new claims 13 and 14 merely to better clarify the scope of the invention. No additional subject matter has been added as a result of this amendment. In addition all references to "rod" in the claims have been changed to "fishing rod" to also further clarify the scope of the invention.

SUMMARY

The claims have been amended in order to place the current application in condition for allowance in accordance with the comments made by the Examiner in the Office Action of July 29, 2004. As such, it is believed that the current application is allowable, and notification to that effect is respectfully requested.

Should any clarification be required, or should the Examiner wish to comment further, he is urged to contact the undersigned by telephone at his earliest convenience.

As such, having addressed all issues raised by the Examiner, the Applicant contends that the present application is in condition for allowance, and notification to that effect is respectfully requested. Accordingly, favourable reconsideration of this application is respectfully requested.

Respectfully submitted,



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